

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

INNOVATION VENTURES, LLC D/B/A §
LIVING ESSENTIALS, §
§ CIVIL ACTION NO. 4:08-cv-232
V. §
§ JURY
ULTIMATE LIFESTYLES, LLC, ET AL. §

ORDER

The parties are in the process of documenting a settlement of this matter. As part of documenting the settlement, the parties have requested that the Court first resolve Plaintiff's Unopposed Motion for Partial Dismissal of Certain Trademark Claims (Dkt. 181), which the Court will do as follows:

After considering the parties' Agreed Motion for Partial Dismissal of Certain Trademark Claims, the Court hereby dismisses with prejudice the portions of counts in the Second Amended Complaint against Custom Nutrition Laboratories LLC ("CNL") that assert common law trademark and statutory trademark claims for product manufactured by CNL for Body Dynamics, Inc. d/b/a/ BDI Marketing ("BDI"). All of Innovation Ventures, LLC d/b/a Living Essentials' other claims, counts, and defenses against CNL remain, including but not limited to all non-trademark claims, counts, and defenses involving BDI.

The parties and the court-appointed mediator, Deborah Hankinson, have informed the Court that the remaining issues in this case will be resolved by stipulation of the parties and/or a joint motion for entry of a stipulated Order/Judgment. As such, the Court

anticipates entering a subsequent Order and Judgment resolving all remaining claims in this case.

The previously filed Motion to Dismiss Certain Trademark Claims (Dkt. 162) is DENIED as MOOT.

IT IS SO ORDERED.

SIGNED this 31st day of July, 2009.



Michael H. Schneider
MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE